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| Application Number | 10/723,172 |
| Filing Date | November 26, 2003 |
| First Named Inventor | James A. McEwan |
| Art Unit | 3748 |
| Examiner Name | Thai Ba Trieu |
| Total Number of Pages in This Submission | 6 |
| Attorney Docket Number | HOET-16 |

| ENCLOSURES (Check all that apply) | | |
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| <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | | Remarks |
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| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | |
| Firm Name | Krieg DeVault LLP | |
| Signature | | |
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| Date | January 25, 2007 | Reg. No. 54,620 |

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3748

Confirmation
No.: 5747

Application
No.: 10/723,172

Title: TURBOCHARGER WITH
WASTEGATE

Inventor: James A. McEwan

Filing Date: November 26, 2003

Attorney
Docket No: HOET-16

Examiner: Thai Ba Trieu

Certificate Under 37 CFR 1.8(a)

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JAH

Jason A. Houdek

(Printed Name)

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is respectfully submitted in accordance with 37 CFR § 41.41.

I. STATUS OF CLAIMS

In view of the Examiner's Answer, the status of the claims is as follows. Claims 1-8 and 10-20 are pending. Claims 14-20 are allowed. Claims 2-4 and 11-13 are objected to as depending from a rejected base claim, but would be allowed if rewritten in independent form to include the limitations of the base claim and any intervening claims. Claims 1, 5-8, and 10 remain rejected. The obviousness-type double patenting rejection remains, but can be overcome by the filing of a terminal disclaimer.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

In view of the Examiner's Answer, the issues in this appeal have been narrowed.

The issue now remaining in this appeal is the rejection of claims 1, 5-8, and 10 under 35 U.S.C. § 103(a) based upon U.S. Patent No. 5,159,815 to Schlamadinger in view of U.S. Patent No. 4,549,470 to Yogo.

III. ARGUMENTS

Applicant submits this Reply Brief to request formal clarification of the Examiner's Answer. As set forth above, Applicant's understanding of the Examiner's Answer is that claims 14-20 are allowed, claims 2-4 and 11-13 are objected to as depending from a rejected base claim, but would be allowed if rewritten in independent form to include the limitations of the base claim and any intervening claims, and that claims 1, 5-8, and 10 remain rejected under 35 U.S.C. § 103(a) based upon U.S. Patent No. 5,159,815 to Schlamadinger in view of U.S. Patent No. 4,549,470 to Yogo.

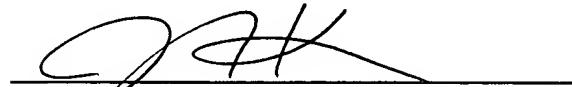
If Applicant's understanding is correct, Applicant would be agreeable to withdraw of the present appeal and reopening of prosecution to allow amendments and a terminal disclaimer which would allow the present application to issue.

Applicant wishes to clarify its understanding is view of some minor informalities in the Examiner's Answer, namely paragraph 3 indicates claims 14-20 are allowed, while paragraph 6 indicates claims 15-16 remain rejected, and paragraph 6 indicates claims 11-13 to be allowable while paragraph 2 indicates only claims 11-12 to be allowable. Applicant respectfully requests a response to this Reply Brief confirming that Applicant's understanding of the status of this appeal as set forth above is correct.

In the event that Applicant's understanding is correct, Applicants agree to withdraw this appeal and reopen prosecution to allow amendments and a terminal disclaimer which would allow the present application to issue. In the event that Applicant's understanding is incorrect, Applicant respectfully requests that the Examiner

issue a corrected Examiner's Answer so that the Applicant can be afforded an opportunity to respond.

Respectfully submitted,



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